IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 322 (MS) OF 2006

Smt. Mathura Devi, W/o Shri Buddhi Singh,
Pradhan Gram Panchayat – Bharpuriyagaon,
Tehsil-Pratap Nagar,
District-Tehri Garhwal. ……...Petitioner.

Versus

1. State of Uttaranchal through the Secretary,
   Panchayat Raj, Government of Uttaranchal,
   Dehradun.
2. District Panchayat Raj Officer, Tehri Garhwal.

……Respondents.

Mr. I.P. Gairola, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated: 03.04.2006

Hon'ble Rajesh Tandon, J.

Heard Sri I.P. Gairola, learned counsel for the petitioner and Sri Nand Prasad Arya, learned Standing Counsel for the respondents. Both the parties have submitted that let the writ petition be finally disposed of at the admission stage.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents not to interfere in the peaceful functioning of the petitioner as Pradhan Gram Panchayat Bharpuriyagaon, District Tehri Garhwal.

Briefly stated, according to the case of the petitioner, he is an elected Pradhan of the Gram Panchayat Bharpuriya Gaon, Block-Pratap Nagar, District-Tehri Garhwal and has been performing her duties. On the application submitted by Sri Sohan Pal Singh Panwar, District Panchayat Raj Officer,

District Tehri Garhwal issued an order on 9th March, 2006 by which a meeting has been convened on 7th April, 2006 at about 11.00 a.m. in Village Bharpuriya Gaon to decide the No-confidence Motion. According to the case of the petitioner notice for No-Confidence Motion has been presented on 9th March, 2006 before the respondent no. 2 by only five persons who belong to and Gram Sabha and not of Gram Panchayat. District Panchayat Raj Officer, when in point of fact according to Rule 33-B of the Panchayat Raj Act a written notice of the intention to move a motion for removal of the Pradhan or Up-Pradhan under Section 14 of the Act has to be signed not less than one-half of the total number of members of the Gram Panchayat and shall state the reason for moving the motion and it shall be delivered in person by at least three members singing the notice to the District Panchayat Raj Officer. Rule 33-B(1) of the U.P. Panchayat Raj Act, 1947 is quoted below:-

"[33-B. Procedure for removal of Pradhan or Up-Pradhan.-(1)A written notice of the intentyion to ove a motion for removal of the Pradhan or Up-Pradhan under Section 14 of the Act shall be necessary. It shall be signed by not less than one-half of the total number of members of the Gram panchayat and shall state the reasons for moving the motion and it shall be delivered in person by at least three members singing the notice to the District Panchayat Raj Officer. Before proceeding further on the notice, the District Panchayat Raj Officer shall satisfy himself regarding genuineness of signatures of the members signing the notice."

The petitioner has also submitted that the genuineness of the signatures as contained under the Rule 33-B has also not been examined before convening the motion for no confidence.

So far as the Gram Panchayat is concerned, there are following members according to the petitioner:-

"1. Smt. Mathura Devi- Pradhan.

2. Shri Hari Om - Up Pradhan

3. Sateshwari Devi - Member

4. Bhagwan Singh - Member

5. Kaushliya Devi - Member

6. Kishan Singh - Member"

The same has been presented only by the members of the Gaon Sabha and not by the members of the Gram Panchayat as contained aforesaid.

In view of the aforesaid averments, District Panchayat Raj Officer is directed to examine the contents of Clause (1) of Rule 33-B as to whether the application moved by Sri Sohan Pal Singh Panwar has satisfied the requirement of Rule 33-B of the U.P. Panchayat Raj Act, 1947 or not. The respondent no. 2 shall examine this fact before 6th April, 2006, in case, sub-clause (1) of Rule 33-B is not satisfied, the respondent no. 2 shall postpone the meeting and shall proceed according to aforesaid rule.

Writ petition is disposed of. No order as to costs.

Copy of the order to be given today.

Rajesh Tandon, J.)

03.04.2006

Rathour